

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

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In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

Re: ECF No. 1048, 1054

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO

Debtor.

PROMESA

Title III

No. 17 BK 3283-LTS

This Response relates only to the Commonwealth and shall only be filed in the lead Case No. 17 BK 3283-LTS.

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RESPONSE OF THE COMMONWEALTH TO MOTION FOR RELIEF FROM AUTOMATIC STAY FILED BY LESLIE JAY BONILLA SAUDER [ECF NO. 1048]

To the Honorable United States District Court Judge Laura Taylor Swain:

Comes now the Commonwealth of Puerto Rico (the “Commonwealth”)² to respectfully move the Court for an order granting partial relief from the automatic stay set forth in

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

² The Financial Oversight and Management Board for Puerto Rico, as the Debtors’ representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”), has authorized the Department of Justice to file this Response on behalf of the Commonwealth.

Bankruptcy Code section 362 (the “Title III Stay”), made applicable to this Title III case by PROMESA section 301(a), and state as follows.

RESPONSE

1. On August 16, 2017, Leslie Jay Bonilla Sauder (“Movant”) appeared before this Honorable Court requesting relief from the Title III Stay to continue the state civil action pending before the Court of First Instance in the Municipality of Aibonito captioned Leslie Jay Bonilla Sauder v. ELA, Case No. BAC2017-0017, against the Commonwealth contesting the forfeiture of Movant’s automobile as a result of a criminal intervention by law enforcement agents (the “Forfeiture Action”). [ECF No. 1048]. The Commonwealth is due to respond to this request by August 30, 2017, as ordered by this Court. [ECF No. 1054]

2. The Commonwealth believes, after evaluating the facts and procedural stage of the Forfeiture Action, that it is in the best interest of both parties for this Honorable Court to grant a partial modification of the Title III Stay case to let Movant proceed with the Forfeiture Action solely to contest the forfeiture of his alleged automobile as a result of a criminal intervention by law enforcement agents. By agreeing to the partial modification of the Title III Stay, in no event shall the Commonwealth be required to satisfy any liability to Movant in any way whatsoever with respect to the Forfeiture Action.

3. Nothing contained in this Response should be construed as a waiver or modification of the Title III Stay to permit the prosecution against the Commonwealth of any claim by anyone other than Movant as provided for herein, and the Commonwealth reserves all rights, defenses, and protections with respect to any other motions for relief of stay or any other matters pending in the Commonwealth’s Title III case. The Commonwealth further reserves its rights with respect to any claim currently pending in the Forfeiture Action or hereinafter asserted

by Movant, including any claims for damages. As a potential prepetition, unsecured creditor of the Commonwealth, Movant's claims for damages are subject to the claim resolution process that will be undertaken in the Title III case. See In re Residential Capital, LLC, Case No. 12-12020 (MG), 2012 WL 3860586, at *4 (Bankr. S.D.N.Y. Aug. 8, 2012) ("Claims for damages against the Debtors are the usual grist for the bankruptcy claims allowance process and absent unusual circumstances the bankruptcy court remains the appropriate form to resolve such claims.").

WHEREFORE, it is respectfully requested that the Honorable Court take notice of the above, and in consideration of the Motion, GRANT partial relief, provided that the Title III Stay is lifted solely with respect to Movant's action to contest the Forfeiture Action. The Title III Stay shall continue to apply with respect to the (i) prosecution of any claims for damages and provisional remedies and (ii) execution and enforcement of any judgment for damages and provisional remedies. It is expressly asserted that nothing contained herein shall require the Commonwealth or any of the other Debtors in the above-captioned cases or their assets or properties to satisfy any liability to Movant in any way whatsoever with respect to the Forfeiture Action. Nothing contained herein operates as a waiver or modification of the Title III Stay for any purpose other than as expressly provided for in this paragraph.

CERTIFICATE OF SERVICE

I hereby certify that on this date I electronically filed the foregoing Motion with the Clerk of the Court, using the CM/ECF System, which will send notification of such filing to all appearing parties and counsels using the Court's electronic system.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on August 30, 2017.

**Attorney for the Commonwealth of
Puerto Rico:**

Wanda Vázquez Garced
Secretary of Justice

/s/ Wandymar Burgos Vargas

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